

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010080355

ORDER GRANTING MOTION TO
RESET TIMELINES

On August 06, 2010, Janelle Ureta, Esq., of the Learning Rights Law Center, filed a Due Process Hearing Request (complaint) on behalf of Student (Student) against Los Angeles Unified School District (District).

On September 9, 2010, the District filed a motion to dismiss extend procedural timelines due to Student's failure to properly serve the District, which rendered the District unable to timely set a mandatory resolution session. On September 10, 2010, Student filed an opposition to the District's motion, contending that although Student served the complaint on the Office of the Superintendent, the District's due process unit knew or should have known about the complaint when filed. According to OAH file notes, the District contacted OAH on September 8, 2010, to cancel the scheduled mediation, as the District had not been served with the complaint. On September 8, 2010, OAH forwarded a courtesy copy of the complaint to the District.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a resolution meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I);¹ 34 C.F.R. § 300.510(a)(1) (2006).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (§ 1415(f)(1)(B)(i)(IV); 34 C.F.R. § 300.510(a)(3) (2006).) There are no provisions of law that allow a parent or an LEA to unilaterally waive the resolution meeting. (71 Fed. Reg. 47602, No. 156 (Aug. 14, 2006).) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3) (2006).) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. § 300.510(b)(4) (2006).)

The District is required to schedule and Student's parent is required to participate in a resolution session before a due process hearing may be commenced. It is clear that the District was not properly served, and therefore was not able to set a timely resolution session prior to mediation. The District has indicated that it wishes to fulfill its obligation to hold a resolution session in this matter.

Therefore, District's motion to extend procedural timelines is granted.

ORDER

1. District's motion to extend procedural timelines is granted.
2. All previously set dates in this matter are vacated.
3. The parties are ordered to participate in a resolution session within 15 business days from the date of this order.
4. The timelines for hearing shall recommence on date of this order.

IT IS SO ORDERED.

Dated: September 20, 2010

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings